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| Re Applic of | Michael P. Belyansky, et al. |
| Docket No. | FIS920040047US1 |
| Serial No. | 10/709,652 |
| Filing Date | 5/20/2004 |
| Attorney | H. Daniel Schnurmann |

Attached: Response to Restriction Requirement

PLEASE DELIVER TO: Walter L. Lindsay, Jr.
EXAMINER: ART UNIT: 2812
CONFIRMATION NO.: 3651
PHONE NO:
FAX NO: 703-872-9306

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|---|---|
| In re application of: Michael P. Belyansky, et al. | Date: May 12, 2005 |
| Serial Number: 10/709,652 | Examiner: Walter L. Lindsay, Jr |
| Filed: 5/20/04 | Group Art Unit: 2812 |
| Title: Reduced Dielectric Constant Spacer Materials Integration for High Speed Logic Gates. | IBM Corporation D/18G, B/300, Zip 482 2070 Route 52 Hopewell Junction, NY 12533-6531 |

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner of Patents and Trademarks
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated May 03, 2005.

The Examiner in the aforementioned Office Action has required restriction under 35 U.S.C. 121, stating that the claims belong to:

GROUP I, Claims 1-9, drawn to an integrated circuit, and

GROUP II, Claims 10-20, drawn to a method of forming an integrated circuit

10/709,652

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FIS920040047US1

PAGE 231 RCVD AT 5/12/2005 2:12:41 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:845 892 6363 * DURATION (mm:ss):01:06

Applicants traverse the aforementioned Restriction Requirement for the following reason:

Applicants submit that the claims as filed are related as a process of fabricating a Field-Effect Transistor and are limited to making only FETs of the type illustrated in Figures 1-4. The Restriction Requirement justifies the restriction by vaguely stating that "the process as claimed can be used to make other and materially different products", but fails to list any such "other and materially different products". Thus, Applicants deem that both Groups I and II are one and the same, and they do not fit the criteria for restriction. Accordingly, it is believed that the restriction requirement should be withdrawn.

Notwithstanding the foregoing arguments, Applicants elect to prosecute the invention of GROUP II, consisting of Claims 10-20 drawn to the method, and withdraw from consideration the claims forming GROUP I, as being drawn to non-elected invention, without prejudice to the Applicants' right to file a Divisional or Continuation or Continuation-in-Part Patent Application for the withdrawn claims.

Respectfully submitted,
MICHAEL P. BELYANSKY, ET AL.

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